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## ESTABLISHMENT AND DEVELOPMENT OF DONETSK SCIENTIFIC SCHOOL OF COMMERCIAL LAW AND ITS UNIT IN VASYL' STUS DONETSK NATIONAL UNIVERSITY

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**Abstract.** *The article deals with the main stages of the formation and development of Donetsk Scientific School of Commercial Law and its unit in Vasyl' Stus Donetsk National University. The authors present the leading conceptual ideas that have been substantiated in the scientific works of the representatives of the scientific school while naming the representatives of the first generations of the Donetsk Scientific School of Commercial Law (the School), who founded and co-created the commercial-legal concept. Thus, the way of formation of the School in Vasyl' Stus Donetsk National University is considered, along with commercial scholars, who were involved in the development of the unit.*

*The current state of scientific achievements and the composition of representatives of the organization of the School at Vasyl' Stus Donetsk National University are described. Special attention is given to continuity of scientific researches of representatives of different generations of the School considering modern economic, political and legal realities.*

*The authors provide an outlook of activities of the team of the School at Vasyl' Stus Donetsk National University, which is manifested as the achievement of the goal of strengthening the system of legal means, aimed at ensuring equal conditions, stability and efficiency of management for all participants of business relations, satisfaction and pro-*

*tection of interests of such participants to ensure the growth of business activity of business entities, ensuring the coherence and coordination of actions of business entities, their interest in the development of entrepreneurship and, on this basis, ensuring the effectiveness of social output, its social orientation.*

**Key words:** *Donetsk Scientific School of Commercial Law, Scientific School Unit, Vasyl' Stus Donetsk National University.*

## 1. Introduction

Successful implementation of the tasks of modern legal science largely depends on the functioning of scientific law schools – teams of legal scholars of different generations, united by a commonality of scientific views, under the guidance of recognized scientific leaders who conduct fundamental and applied scientific research in the legal field, the results of which are embodied in the normative and law enforcement practice. Among such scientific schools, a prominent place is occupied by the Donetsk Scientific School of Commercial Law, one of the units of which is formed in Vasyl' Stus Donetsk National University. The developments of this scientific school have significantly influenced the development of economic and legal thought in our country and beyond, became the basis for the codification of Ukrainian legislation and further improvement of individual acts of such legislation. With this in mind, it is worthwhile to refer to the history of the formation of this scientific school, to highlight the main ideas of its representatives, the state and directions of their scientific research.

## 2. Literary review

References to the Donetsk Scientific School of Commercial Law are contained in many literary sources. Among

them, it is necessary to note, in particular, the monograph of V. I. Andreitsev «Scientific and scientific-legal schools: state and problems of legal regulation» in which the significant influence of this scientific school on increase of the role and prestige of the law in the solving of economic-legal researches is noted [1, p. 144–145]. A number of interesting facts about the history of formation of the School are presented in one of the articles of the founder of this scientific school – academician of the National Academy of Sciences and the National Academy of Legal Sciences of Ukraine V. K. Mamutov [2], the achievements of this scientific school also drew attention abroad [3]. Some information about the results of the unit of this scientific school, created in Vasyl' Stus Donetsk National University, are given in the review publication, prepared on the occasion of the 30th anniversary of the Department of Commercial Law at the University [4]. At the same time, there have been no separate publications specifically devoted to the statement of the main provisions for the establishment and development of this scientific school and its university center.

## 3. Purpose and objectives of the study

The purpose of this article is to acquaint the scientific community with the

history of the formation and development of the Donetsk Scientific School of Commercial Law, the state and directions of research of the School's unit functioning under Vasyl' Stus Donetsk National University.

For this purpose, the following tasks are considered:

1. The provision of characteristics of the main stages of formation and development of the mentioned scientific school and its unit at Vasyl' Stus Donetsk National University.

2. The analysis of the current state of activity of the above-mentioned department of this scientific school.

3. The identification of perspective directions of scientific research of the organization of Donetsk Scientific School of Commercial Law at Vasyl' Stus Donetsk National University.

#### **4. Analysis of establishment and development of Donetsk Scientific School of Commercial Law and its unit in Vasyl' Stus Donetsk National University**

The formation of the School began in the late 50s of last century, and its founder, as noted above, was Valentyн Karlovych Mamutov (30.01.1928–15.03.2018) – a scholar, whose name is associated with the revival of the science of commercial law in the USSR (after its unofficial prohibition during 1938–1955), the further development of this branch of scientific knowledge, and later – the formation of basic principles of legislation in independent Ukraine [5].

Along with V. K. Mamutov – the founder and leader of this scientific school, the first generation of its

representatives includes Doctors of Law I. Ye. Zamoiskyi, H. L. Znamenskyi, S. Z. Mykhailin, Yu. S. Tsymerman, O. O. Chuvpylo, Candidates of Legal Sciences D. Kh. Lypnytskyi, O. M. Novoshytskyi.

The leading conceptual ideas that have been grounded in scientific works of V. K. Mamutov and have determined the overall orientation of the research of the representatives of the scientific school that he founded throughout its existence include:

- legal support for the organization and implementation of economic activities and placing it in the basis of the Commercial Code of Ukraine;

- creating legal conditions for a reasonable combination of state regulation of the economy and market self-regulation, the coexistence of different forms of ownership in a market economy;

- ensuring equal business conditions and equal subordination of participants in business relations to the legal economic order;

- existence of commercial law as an independent branch of law, legislation, and science.

The initial stage of formation of the School covered the period from 1958 to 1983. During this period, the foundation of the commercial-legal theory was laid, in particular, during the defense of doctoral dissertations of V. K. Mamutov («Regulation of the Competence of Economic Bodies of the USSR Industry in Solving Economic Issues», 1965), Yu. S. Tsymerman («Economic and Legal Aspects of the Organization and Activities of Industrial Ministries», 1980),

S. Z. Mykhailin («Problems of Ensuring the Safety of State Socialist Property», 1981). The scholars also prepared and issued a number of monographs and other scientific papers that influenced further developments in this field. The spread of ideas of Donetsk commercial scholars in this period was promoted by the establishment of the Donetsk branch of the Institute of Economics of the Academy of Sciences of the Ukrainian SSR in 1965 (named the Institute of Industrial Economics of the Academy of Sciences of the Ukrainian SSR since 1969), the participation of these scholars in the preparation of the draft of the basic provisions of the Commercial Code of the USSR, the hosting of a number of scientific-practical conferences of republican and cross-Union level on topical issues of commercial law in Donetsk [2, pp. 5–7].

Realizing the need for personnel support and improving the quality of legal work in the field of commercial activity, V. K. Mamutov was one of the initiators of the establishment of the Department of Economics and Law at the Donetsk State University (1983), where the training of lawyers was focused primarily on commercial and legal specialization.

The next stage in the history of the development of the Donetsk Scientific School of Commercial Law (1984–2000) was characterized by the strengthening of the institutional foundations of its activities and human resources. Thus, in 1984 the defense of doctoral dissertations of I. Ye. Zamoiskyi («Commercial Bodies in the System of Legal Regulation») and H. L. Znamenskyi («Methods and Means of Increasing the Efficiency

of Commercial Legislation») took place. In the same year, at the Faculty of Economics and Law of Donetsk State University established the Department of Commercial Law, which at that time became the second department in Ukraine, which graduated law students of commercial and legal specialization. The department was headed by Doctor of Law, Professor, WWII veteran Serhii Mykhailin – a prominent commercial law scholar of the Donetsk region, who successfully headed the department for 10 years straight (1985–1995). Precisely from 1984, the unit of Donetsk Scientific School of Commercial Law in Donetsk National University begins its history.

Cooperation with the Institute of Industrial Economics of the National Academy of Sciences of Ukraine (named the Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine since 1992), whose scholars from the beginning have actively participated in the educational and scientific work of the Faculty of Economics and Law and the Department of Commercial Law, in particular, contributed to the conduct of commercial and legal research at the Donetsk University. V. K. Mamutov, H. L. Znamenskyi, D. Kh. Lypnytskyi, which for many years have taught at the Department of Commercial Law, made a significant contribution to the formation of the School at the University.

Conducting scientific research under the ideological guidance of V. K. Mamutov, the staff of the Department of Commercial Law and some professors of sister departments of the faculty became

representatives of the first and second generations of participants of the created unit of the scientific school.

During this period, professors and graduates of the Faculty of Economics and Law of Donetsk State University defended a number of dissertations on commercial law specialization (candidate dissertations of S. M. Hrudnytska (1997), O. O. Ashurkov (1999), O. P. Zahnitko (1999), O. R. Zeldina (1999), N. Ye. Kosach (1999), V. A. Malyha (1999), R. A. Petrov (1999), S. A. Kuzmina (2000), O. S. Yankova (2000), O. V. Zvierieva (2000), etc.). Separately worth mentioning is Oleksandr Oleksandrovych Chuvpylo's doctoral dissertation «Trends of Legal Regulation of Commercial Activity in Foreign Countries» (1996), which was the first time when theoretical foundations of commercial law in foreign countries were considered and generalizations of relevant foreign experience were presented [6].

Within the same period, representatives of the Donetsk scientific school of commercial law were actively involved in the preparation of the draft Commercial Code of Ukraine. This work was directed and coordinated by V. K. Mamutov, who was appointed by the Cabinet of Ministers of Ukraine as the head of the working group on preparation of the draft, and H. L. Znamenskyi, thanks to whose efforts the work on adoption of the Code was finalized. They provided scientific support for the draft law during its review in the Verkhovna Rada of Ukraine.

The period of 2001–2014 was a stage

of further growth of the Donetsk scientific school of commercial law, strengthening of its authority, and its unit in the Donetsk National University. The adoption of the Commercial Code of Ukraine by the Verkhovna Rada of Ukraine, which entered into force on January 1, 2004, contributed to the recognition of achievements of this scientific school at the state level, in academic circles in both Ukraine and other countries.

This stage of development of the Donetsk unit is characterized by a significant intensification of commercial legal research. Doctoral dissertations were prepared and defended by in-house and assistant faculty members – A. H. Bobkova (2001) B. N. Poliakov (2003), A. H. Zeldyna (2007), V. A. Ustymenko (2007), S. S. Valytov (2010), H. D. Dzhumaheldyeva (2012), Y. F. Koval (2014). At the same time, a new generation of its representatives joined the activities of the scientific school: postgraduate students and teachers of the faculty prepared and defended more than 30 candidates' dissertations on commercial legal specialization. The school published a scientific-practical commentary on the Commercial Code of Ukraine, a number of scientific monographs, as well as organized and held several large-scale international scientific and practical conferences on topical issues of legal support of economic development.

Starting from October 2014 and up to now it is possible to distinguish one more stage of development of Donetsk scientific school of commercial law, when the majority of its representatives continued their work in different cities of Ukraine,



resulting in the school's geographical division into two powerful units: one was formed on the grounds of the Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine, headed by Corresponding Member of the National Academy of Sciences of Ukraine, Professor, Doctor of Law V.A. Ustymenko, while the second one – on the grounds of the Law Faculty of Vasyl' Stus Donetsk National University, relocated to the city of Vinnytsia (hereinafter – Vinnytsia Branch), headed by Academician of the National Academy of Legal Sciences of Ukraine, Professor, Doctor of Law A.H. Bobkova.

An important indicator of the development of both the Donetsk Scientific School of Commercial Law in general and its unit at the Donetsk National University is the preservation of continuity in research by representatives of different generations of the scientific school.

The abovementioned refers to the legal support of recreational activities as an area of scientific interest. At the time, the development of this topic was initiated by V.K. Mamutov (in particular, in the work «Recreation: Socio-Economic and Legal Aspects») and A.M. Serebriakov («Problems of Legal Regulation of the Use of Recreational Resources»), later developed in the doctoral dissertation of A.H. Bobkova («Legal Support of Recreational Activities»), and now followed in the works of K.A. Kalachenkova et al.

The theoretical ideas featured in the selected works of V.K. Mamutov («State Bodies Competence in Solving Industrial Economic Issues», «Enterprise and the Higher Commercial Body», «Pub-

lic Property: Problems of Theory and Practice») received further development in the studies «State Property Management (Commercial Legal Aspects)» by A.M. Zakharchenko and «Problems of Securing State Socialist Property: Legal Aspects» by S.Z. Mykhailin.

The legal status of the various participants of relations in the sphere of commercial activity has been systematically studied during the whole period of existence of the scientific school. In particular, in addition to the above-mentioned scientific works of V.K. Mamutov, the relevant issues have been developed in the candidate dissertations of O.O. Chuvpylo («Administrative Legal Status of Business Associations», 1971), O.S. Yankova («Legal Regulation of the Authorized Fund of Commercial Organizations», 2000), R.F. Hryniuk («Legal Status of Communal Enterprises in Ukraine», 2001), N.V. Shcherbakova («Legal Regulation of Mergers and Acquisitions of Commercial Entities», 2006), A.M. Zakharchenko («Economic Competence of Local State Administrations», 2007), I.A. Shcherbak («Legal Regulation of Commercial Relations with Participation of Separate Subdivisions of Enterprises», 2009), I.M. Liubimov («Legal Status of State Enterprises», 2010.), L.N. Doroshenko («Legal Grounds for Forced Liquidation of Commercial Entities», 2012), Yu.S. Aleksieieva («Commercial Legal Status of Private Enterprise in Ukraine», 2012), V.V. Manziuk («Legal Status of Tourist Entrepreneurship», 2013), Ye.O. Lipnytska («Legal Status of Foreign Invested Enterprises», 2015), D.O. Lisova

(«Securities Traders as Subjects of Commercial Legal Relations», 2016), and others.

Donetsk commercial legal academics made a significant contribution to the formation of the theory of commercial liability. This line of research was founded by representatives of the first generation of the scientific school – V.K. Mamutov («Enterprise and Material Liability», 1971), O.N. Novoshytskyi («Compensation Function of Monetary Sanctions», 1971), who, among other things, has developed the Methodology of evaluation of the amount of the damages (losses), caused due to infringement of commercial contracts, D.H. Lypnyskyi («Basic Directions of Unification of Economic Sanctions», 1998) and subsequently expanded by A.H. Bobkova («On the Issues of Determining Economic and Legal Liability», 2008), Z.F. Tatкова (candidate thesis «Fundamentals, Types and Forms of Economic and Legal Liability», 2010), V.I. Novoshytska (candidate thesis «Indemnification of Losses in the Commercial Sphere», 2017).

Today, the sphere of scientific developments of Vinnytsia Branch of Donetsk Scientific School of Commercial Law covers a wide range of issues of commercial legal support of the economic development of Ukraine. In recent years, under A.H. Bobkova's initiative, a new framework of scientific research was established – «Legal Support of Environmental Entrepreneurship». A number of proposals to improve the legal basis for the organization and implementation of such entrepreneurship, which covers various types of innovative activities of

commercial entities ranging from production, works, and services of special (environmental) purposes aimed at ensuring environmental safety, rational use of natural resources, improving the level of environmental protection for profit is justified within the framework.

Another original line of research of the Vinnytsia Branch of the Donetsk Scientific School of Business Law – «Commercial and Legal Regulation of Relations in the Sphere of Industrial Property» is based on a doctoral dissertation and other scientific works by I.M. Koval, who substantiated the concept of commercialization of industrial property rights [7].

In total, the participants of the scientific school, who now work in Vasyl' Stus Donetsk National University, have prepared and published nearly 890 scientific and about 250 educational and methodical materials. Among the most significant scientific works, the authors (co-authors) of which were representatives of Vinnytsia Branch of the scientific school, we should mention the collective monographs «Commercial and Legal Aspects of Ensuring the Development of Ukrainian Economy» [8], «Legal Support for the Development of Environmental Entrepreneurship («green» economy)» [9], A.M. Zakharchenko's monograph «State Property Objects Management (commercial legal aspects)» [10], A.H. Bobkova's separate sections in the monograph «Legal System of Ukraine: History, State and Prospects: in 5 volumes», v. 4 «Methodological Bases of Development of Ecological, Land, Agrarian and Commercial Law», «Ukrainian Legal

Doctrine: in 5 volumes», v. 4 «Doctrinal Issues of Environmental, Agrarian and Commercial Law», articles of the scholars of Vinnytsia Branch in Volume 14 «Ecological law» and Volume 15 «Commercial law» of the «Great Ukrainian Legal Encyclopedia» and many more.

Following the results of the conducted researches, representatives of Vinnytsia Branch of Donetsk Scientific School of Commercial Law carried out a number of developments in the sphere of legislative activity. In particular, the Concept of Legal Support for the Development of Environmental Entrepreneurship («Green Economy Concept»), draft laws «On Environmental Entrepreneurship («Green Economy»», «On Amendments to Certain Acts of Ukraine in Connection with the Adoption of the Law of Ukraine «On Environmental Entrepreneurship («Green Economy»)» have been developed. Proposals have been prepared for improving the existing legislation: the Civil Code, the Tax Code, the Laws «On Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2020», «On Environmental Protection», «On Priority Guidelines for the Development of Science and Technology», «On State Property Management», «On Tourism», «On Innovative Activities» and many others.

After the relocation of the Donetsk National University to Vinnytsia, the postgraduate course was resumed. Over 30 postgraduate students are currently working on their theses on specialty 12.00.04 – commercial law, arbitration process. Doctoral studies in this specialty were launched in 2014 and a Spe-

cial Scientific Council for the defense of candidate dissertations was created (K 11.051.12), the majority of members of which are involved in the Vinnytsia Branch of the Donetsk Scientific School of Law.

Particular attention is paid to students' work, educating the future generation of commercial lawyers. The results of such work are manifested by active participation and achievements of students in various all-Ukrainian and international contests, olympiads and competitions. For more than fifteen years, the Department of Commercial Law in cooperation with the Council of Students' Self-Government has been holding all-Ukrainian contests on commercial law and process named after S. Z. Mykhailin attended by representatives from all regions.

Representatives of the Vinnytsia Branch of the Donetsk School of Commercial Law are members of the Scientific Advisory Council at the Supreme Court, members of the editorial boards of a number of scientific professional publications, specialized scientific councils for dissertations, they maintain close communication with the staff of the relevant specialized departments of other higher educational and scientific institutions.

### **5. The research results**

The above shows that the Donetsk Scientific School of Commercial Law and its unit in Vasyl' Stus Donetsk National University have come a long way of formation and development, during which they made a significant contribution to the development of commercial law science, ensuring the codification of



Ukrainian legislation, further improvement of such legislation and its application practice. Theoretical developments of the representatives of this school are used in law-making activities of legislative and executive authorities, law enforcement activities of executive authorities and local self-government, the Constitutional Court of Ukraine and the Supreme Court, other judicial bodies, in notarial and advocacy practice, in legal work of economic entities.

### **6. Conclusions.**

1. The establishment of the Donetsk Scientific School of Commercial Law and its unit at Vasyl' Stus Donetsk National University was carried out in several stages, each of which is characterized by relevant achievements and contribution to the concept of commercial law as a science, branch of law, legislation.

2. The current state of activity of Vinnytsia Branch of Donetsk Scientific

School of Commercial Law is characterized by the continuation of traditions in scientific search and introduction of new directions of commercial legal research.

3. The staff of the Donetsk Scientific School of Commercial Law (Vasyl' Stus Donetsk National University unit) associates the perspective of its activities with the achievement of the goal of strengthening the system of legal means aimed at ensuring equal conditions, stability, and efficiency of business for all participants of commercial relations, satisfaction and protection of interests of such participants to ensure the growth of economic activity of business entities, the coherence, and coordination of actions of commercial entities, their interest in the development of entrepreneurship and, on this basis, the improvement of the efficiency of social production and its social orientation.

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